

S/N 10/700,419

Atty Dkt No. GP-302502 (GM-0392FUS)

REMARKS

The following remarks are intended to be fully responsive to the Office Action mailed July 27, 2005:

Claims 1-3, 5-7, and 9-11 are pending. Claims 4 and 8 were previously cancelled. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schacher et al (US 3,683,618). Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schacher et al in view of Lemon (US 3,985,063) or Emmadi (US 4,265,346). Claims 7, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schacher et al in view of Berger et al (US 5,307,727). Claim 10 is allowed. Accordingly, Applicants have amended claims 1, 7 and 11 and accordingly the respective dependent claims.

Claim Rejections - 35 U.S.C. § 112

Claim 9 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states, "Claim 9 depends from a cancelled claim. For examination purposes it has been assumed that it was meant to depend from claim 7." The reference in claim 9 to cancelled claim 8 was in error, and has been amended herein to properly refer to claim 7.

Claim Rejections – 35 U.S.C. §103(a)

Claims 1-3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schacher et al. The Examiner finds in Schacher et al.'s apparatus "a transmission line pressure by pump (10) or exhaust by relief valve (29)." Both of these elements (10) and (29) rely for their operation on a common source of pressure, i.e., pump (10). Applicants have amended claim 1 herein to clarify that the present invention contains a "controllable source of pressurized oil having a signal pressure separate from said transmission line pressure" (emphasis added), a

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limitation neither taught nor suggested by Schacher et al. Support for the amendment is found in the specification at paragraph [0030]. Schacher et al. does not teach or suggest such separation of transmission line pressure and a controllable signal pressure. In summary, Schacher et al. does not teach or suggest "a fill control valve – operative to – communicate the third passage to a controllable source of pressurized oil having a signal pressure separate from said transmission line pressure --". (emphasis added)

Thus in the present invention transmission line pressure 38 and controllable source of pressurized fluid 50 are separate pressures, and therefore cannot be rendered obvious by the single "transmission line pressure by pump (10)" of Schacher et al. Accordingly, Applicants respectfully submit that claim 1 is properly allowable.

Claims 2, 3 and 6 ultimately depend from claim 1, and are allowable for at least the same reasons claim 1 is allowable.

Moreover, with regard to claim 3, the Examiner states that "...pressure is controllable and selectively communicated with the third passage through passage/orifine (sic) (16')." (emphasis added). The language of claim 3, "... third passage is connected to the first passage through an orifice" (emphasis added), is neither taught nor suggested by Schacher et al. Schacher et al. recites a "line 16" which communicates with a line 12c ..." Schacher, column 2, lines 29-30. (emphasis added). Claim 3 by reciting both "passage" and "orifice" distinguishes between the two words when used for "fluid communication". And flow through "orifice" 46 restricts flow through the "third passage" 44, see paragraph [0019]. Schacher et al. lacks any such restrictions or "orifice" in lines 12c or 16c. Applicants contend the rejection of claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Schacher et al. is improper.

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Schacher et al. in view of Lemon ('063) or Emmadi ('346), for the reason that Lemon and Emmadi disclose snubbers. But claim 5 ultimately depends from claim 1, and is allowable for at least the same reasons claim 1 is allowable.

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Claims 7, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schacher in view of Berger et al (US 5,307,727). Applicants have amended claim 7, 9 and 11, which now recite "...providing a controllable source of pressurized oil having a signal pressure separate from said transmission line pressure...". Neither Schacher et al. nor Berger et al. teach or suggest a method for applying and releasing a clutch piston by "providing a controllable source of pressurized oil having a signal pressure separate from said transmission line pressure." (emphasis added). With respect to Berger et al., the fill control valve (32) cannot "alternately" communicate the clutch chamber (48) with transmission line pressure and a controllable pressure, because Berger et al. has only a single pressure source 32l. In short, Berger does not have a "signal pressure separate from transmission line pressure" as claims 7, 9 and 11 require. For these reasons, along with the argument advanced in support of claim 1, *supra*, Applicants submit that amended claim 7 recites elements and limitations that are neither taught nor suggested by Schacher et al, as required for a proper determination of obviousness.

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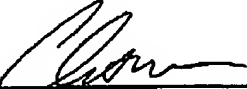
CONCLUSION

Applicants' appreciate the allowance of claim 10, and believe this amendment and remarks in support thereof is fully responsive to the Office Action mailed July 27, 2005, and places the case in condition for allowance.

Please charge any fees associated with this amendment to deposit account 07-0960.

Respectfully submitted,

HESSELL ET AL.

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